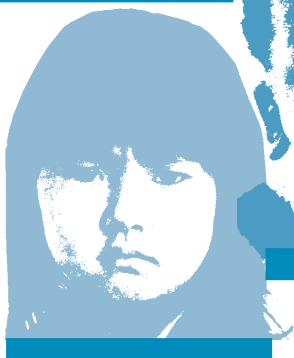


Protecting the Abused and Neglected Child

**An Explanation
of the Washington
State Mandatory
Reporting Law
on Child Abuse**



Washington State
Department of Social
& Health Services

Children's Administration

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Overview

Child abuse and neglect is recognized as a serious threat to the lives of today's children who are tomorrow's adults. The consequences of child abuse and neglect may remain with the victim as an indelible pain

throughout a lifetime. The violence and negligence of parents or other caretakers serve as a model for children as they grow and develop. These child victims today may become the child abusers of tomorrow.

While the true extent of child abuse and neglect is not completely known, The National Clearinghouse on Child Abuse and Neglect estimates that, in 2000, about three million reports were received by CPS agencies in the United States alleging that children were maltreated by their parents or guardians. Nationally, approximately 1200 children die each year as a result of maltreatment. During 2001, Washington State CPS received over 79,000 reports of child abuse and neglect and accepted over 40,000 of them for investigation or other intervention.

In order to combat the growing problem of child abuse and neglect, the Washington State Legislature enacted the first child abuse reporting law in 1965. In 1971, the Legislature required mandatory reporting on the part of certain professionals. The child abuse reporting law has been amended several times since. These amendments have reflected the following: the growing body of knowledge about

prevention and treatment of child abuse and neglect; the enactments of federal standards and guidelines for dealing with child abuse and neglect; the increased effectiveness of service delivery systems in protecting children and helping families learn to protect their own children; and the strong support from professionals and concerned citizens.

One purpose of the child abuse reporting law is to encourage all concerned persons to report and to mandate reporting of suspected child abuse and neglect by certain professionals. The intent is that there will be professional involvement to determine whether child abuse or neglect has occurred with the accompanying provision of services for prevention and treatment.

The child abuse reporting law is one of several types of laws which deal with child abuse and neglect. It is separate and apart from criminal laws which are generally associated with those forms of child abuse and neglect which are criminally punishable, such as homicide, sexual assault, etc. Juvenile Court laws authorize the courts to provide for the legal protection of children, either in their own homes or in substitute care.

Child welfare laws are those which allow the Department of Social and Health Services to provide help to children and their families.

This brochure is designed to serve as a guideline for understanding the child abuse reporting law. For further information contact the Department of Social and Health Services, Division of Children and Family Services (DCFS), Child Protective Services, or your local law enforcement agency.



Purpose of the Child Abuse Reporting Law

The purpose of the Washington state law (Revised Code of Washington, Chapter 26.44) is to protect children who have been non-accidentally injured, sexually exploited or deprived of the right to minimal nurture, health and safety by their parents, custodian or guardian. While the state respects the bond between parent/guardian and child, the state does assert the right to intervene for the general welfare of the child when there is a clear and present danger to the child's health, welfare and safety. The state does not intend to interfere with reasonable parental discipline and child raising practices that are not injurious to the child.

It is the intent of the law that comprehensive protective services will be provided for abused, neglected, exploited and abandoned children found in Washington state. Child Protective Services aim to assist parents or persons legally responsible for abused children to overcome the problems leading to abuse and neglect, strengthen families and improve the general welfare of abused and neglected children.

Certain persons or groups of persons who have frequent contact with children and families are required by Washington's state law to report suspected cases of child abuse and neglect to the Department of Social and Health Services or to the appropriate law enforcement agency. It is the intent of the law that these designated persons, who are in positions to identify children who are at risk from abuse and neglect, will report suspected child abuse and neglect in order that the need for protective services can be assessed.

What Is Child Abuse?

Under the law people should report when it appears there is reasonable cause to believe that a child, legally defined as a person under the age of 18, has been neglected, physically abused, sexually abused, sexually exploited or abandoned.

The statute defines child abuse or neglect as follows:

“Abuse or neglect” means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child’s health, welfare, and safety is harmed. . .

An abused child is a child who has been subjected to child abuse, neglect, or abandonment.

Types of Child Abuse:

Physical Abuse:

Physical abuse means the non-accidental infliction of physical injury or physical mistreatment on a child. Physical abuse includes, but is not limited to, such actions as:

1. Throwing, kicking, burning, or cutting a child;
2. Striking a child with a closed fist;
3. Shaking a child under age three;
4. Interfering with a child's breathing;
5. Threatening a child with a deadly weapon;
6. Doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks or which is injurious to the child's health, welfare and safety.

Sexual Abuse:

Sexual abuse means committing or allowing to be committed any sexual offense against a child as defined in the criminal code. The intentional touching, either directly or through the clothing, of the sexual or other intimate parts of a child or allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of the person touching the child, the child, or a third party.

Sexual Exploitation:

Sexual exploitation includes, but is not limited to, such actions as allowing, permitting, compelling encouraging, aiding, or otherwise causing a child to engage in:

1. Prostitution;
2. Sexually explicit, obscene or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted; or
3. Sexually explicit, obscene or pornographic activity as part of a live performance, or for the benefit or sexual gratification of another person.

Negligent Treatment or Maltreatment:

Negligent treatment or maltreatment means an act or a failure to act on the part of a child's parent, legal custodian, guardian, or caregiver that shows a serious disregard of the consequences to the child of such magnitude that it creates a clear and present danger to the child's health, welfare, and safety.

Abandonment:

Abandonment means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and

the child's parent guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

A child may die as a result of severe abuse or neglect. If a person has a reasonable belief that a child's death is due to abuse or neglect, a report should be made to Child Protective Services and/or law enforcement.

The reporting requirement does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the requirement does apply.

If you are in doubt about what should be reported...

The statutory definitions of what constitute child abuse and neglect can sometimes be subject to problems of interpretation. Whenever there is doubt in a particular case, whether it should be reported or not, the circumstances of the case should be discussed with Child Protective Services or law enforcement. A final determination can then be made, following consultation, as to which circumstances should be formally reported.



What Information Is Necessary to Report?

Oral or written reports to Child Protective Services or the appropriate law

enforcement agency must contain the following information if known:

1. The name, address and age of the child;
2. The name and address of the child's parent or guardians or other persons having custody of the child;
3. The nature and extent of the injury or injuries, neglect and/or sexual abuse;
4. Any evidence of previous incidences of abuse or neglect including their nature and extent;
5. Any other information which may be helpful in establishing the cause of the child's injury or injuries, neglect or death and the identity of the perpetrator or perpetrators.

CPS may ask for information about resources, including funds, extended family and family strengths, which can help the parent(s) to care for and protect children and their family.

Other information which may be of assistance in the investigation such as the time and location where the abuse or neglect occurred or any special needs for communicating with the family or child that may be known.

If a crime has been committed law enforcement must be notified.

The name of the person making the report is not a requirement of the law, however, mandated reporters must provide their name in order to satisfy their mandatory reporting requirement as described on page ten of this booklet.

The department encourages responsible reporting and will receive reports with an offer of limited confidentiality. Names of confidential reporters may be released when ordered by the court or as necessary to protect the child or comply with agency rule and policy.



Who Should Report Suspected Child Abuse or Neglect?

Any person who has reasonable cause to believe that a child has suffered abuse or neglect, may report, in good faith, such incidents to the Child Protective Services of the Department of Social and Health Services, or to law enforcement.

Those required by state law (RCW 26.44.030) to report include the following:

1. Medical practitioners (licensed health service providers, including: podiatrists, optometrists, chiropractors, registered or licensed nurses, dentists, osteopaths, surgeons, physicians and religious healing practitioners).

2. Professional school personnel (including, but not limited to, teachers, counselors, administrators, child care facility personnel and school nurses).
3. “Social services counselor” (anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs).
4. Coroners, medical examiners and licensed pathologists.
5. Registered pharmacists.
6. Licensed or certified child care providers or their employees.
7. Department of Social and Health Services employees.
8. Juvenile probation officers.
9. Law enforcement.
10. Department of Corrections employees who become aware of possible child abuse or neglect during the course of their employment.
11. Staff of responsible living skills programs or HOPE centers.
12. Staff or volunteers in the state Family and Children’s Ombudsman Office.

13. Any adult who resides with a child suspected to have suffered severe abuse.

Reporting should be regarded as a request for an investigation into a suspected incident of abuse or neglect; a report does not necessarily constitute a proven fact – it is the raising of a question about the condition or state of a child. Making a report can be the beginning of a process that can help parents learn to care for and protect their own children.

Under Washington state law, mandated reporters who knowingly fail to make a report, or cause a report to be made, shall be guilty of a gross misdemeanor (RCW 26.44.080).

Upon receiving a report of alleged child abuse or neglect, the law (RCW 26.44.030) gives Child Protective Services access to all relevant records about a child in the possession of mandated reporters and their employees.



To Whom Should a Report Be Made?

A report of suspected child abuse and neglect should be made by telephone, by letter or in person to the local office

of the Washington State Department of Social and Health Services, Division of Children and Family Services (DCFS), Child Protective Services and/or to the local law enforcement agency where the child resides.

The law enforcement agency may be defined as the local police department, the prosecuting attorney, the State Patrol, the Director of Public Safety, or the Office of the Sheriff.

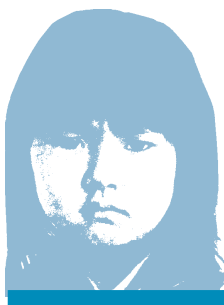
If you are unsure of the phone number of the local DCFS Child Protective Services office, call this 24-hour toll free number. You will then receive the telephone number for the local Child Protective Services Office.

**1-866-EndHarm
(1-866-363-4276)**

Can I Be Sued for Making a Report?

Any person who in good faith makes a report or gives testimony in regard to possible child abuse or neglect is immune from civil or criminal liability. Any administrator of a hospital or similar institution or licensed physician taking a child into custody, such as in the instance when a hospital hold is warranted, is also immune from liability (RCW 26.44.060).

The law seeks to prevent malicious reporting which can occur as a result of family or neighborhood disputes. A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of abuse or neglect shall be guilty of a misdemeanor (RCW 9A.20.021).



What Happens After a Report Is Made?

Upon receipt of a report concerning the possible occurrence of abuse and/or neglect, Child Protective

Services will begin a risk assessment. The risk assessment begins with a review of the information with the reporter to determine if there is sufficient information to locate the child; identify the perpetrator as a parent or caretaker; determine that the allegation is a situation of child abuse or neglect or there is a risk of harm to the child. Referrals which are determined to contain sufficient information may be assigned for investigation or other community response. CPS investigations include the following:

1. Determining the nature and extent of abuse and neglect;
2. Evaluating the child's condition, including danger to the child, the need for medical attention, etc.;
3. Identifying the problems leading to or contributing to abuse or neglect;
4. Evaluating parental or caretaker responses to the identified problems and the condition of the child and willingness to cooperate to protect the child;

5. Taking appropriate action to protect the child, and;
6. Assessing factors which greatly increase the likelihood of future abuse or neglect and the family strengths which serve to protect the child.

Protective services are provided to abused/neglected children and their families without regard to income. Other rehabilitative services for prevention and treatment of child abuse are provided by the Department of Social and Health Services and other community resources (there may be a charge for these services) to children and the families such as:

1. Home support specialist services
2. Day care
3. Foster family care
4. Financial and employment assistance
5. Parent aides
6. Mental health services such as counseling for parents, children and families
7. Psychological and psychiatric services
8. Parenting and child management classes
9. Self-help groups
10. Family preservation services

Reasonable efforts are made to assure that the abused or neglected child is protected from further experiences and conditions detrimental to healthy growth and development, and to assure that the child will receive the essentials for well-being and development either in the child's own home or in appropriate substitute care.

Emergency Situations – Protective Custody Procedures

Law enforcement may take a child into protective custody without a court order in emergent situations where there is a clear and present danger to a child's health, safety and welfare. Probable cause must exist to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order. Child Protective Services and law enforcement are authorized to interview children wherever they are located and, to photograph a child for the purpose of providing documentary evidence of the child's physical condition.

Children taken into protective custody are generally placed in shelter care and their parents notified immediately. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered, priority placement for a child in shelter care shall be with any person related to the child as defined under RCW 74.15.020(2)(a).

If legal action is required, the parents/guardians have the right to proper notice and summons, to be a party to legal proceedings and to legal counsel. The child has the right to have a guardian ad litem or counsel appointed.

Physicians or hospital administrators may detain a child without consent of the person legally responsible for the child whether or not medical treatment is required if they have reasonable cause to believe that releasing the child would place the child in imminent danger. If a physician or hospital administrator makes a decision to detain a child, he/she must notify Child Protective Services or law enforcement as soon as possible and in no case longer than seventy-two hours.

Child Protective Services shall, upon notification, assess the need for the child to remain in protective custody. If the child cannot be safely returned home CPS shall notify the parents, place the child into temporary shelter care and file a petition with the Juvenile Court. A shelter care hearing will be held within 72 hours, excluding Saturdays, Sundays and holidays, to review the need for out-of-home placement.

CPS shall also explore less restrictive and voluntary options with parents who are available and able to participate in planning for the continued safety of their child.



What Is My Responsibility After Reporting Child Abuse or Neglect?

Most often, Child Protective Services and/or law enforcement will investigate the report independently and may not require any further assistance from the reporter. Occasionally, court action is necessary and in some instances, the reporter may be asked to testify in court regarding his/her personal knowledge of the facts of the case.

The records about a child kept by mandated reporters may be requested for review during a CPS investigation. RCW 26.44.030(11) grants CPS the authority to access these records.

Mandated Reporters may request information about the decision to investigate and receive a brief summary of CPS activity in response to the referral. CPS may not divulge further information about the child or family unless there is a continuing service plan and the reporter is a professional helping to treat the child abuse or neglect issue. CPS has professional Child Protective Teams in every community who volunteer to staff cases, review issues and to assist in treatment planning for child victims and their family.

For further information contact your local Division of Children and Family Services Office, Child Protective Services or your local law enforcement agency. If you need help locating Child Protective Services in your community call:

**1-866-EndHarm
(1-866-363-4276)**

This toll free, statewide number
is available 24 hours a day.

Hearing impaired inquiries may be directed to:

TDD: (360) 902-7906

weekdays from 8:00 a.m. to 5:00 p.m.

Medical Consultation Network

Child Protective Services, Law Enforcement, Prosecuting Attorneys and health care providers can obtain expert medical consultation on cases of child abuse or neglect at no cost.

The University of Washington, under contract with Children's Administration, offers this service through a statewide network of practicing physicians. Training on issues of child abuse or neglect is also available.

The network can be contacted toll-free at:

1-800-326-5300



Children's Administration